

Securities Investigations and Enforcement Newsletter – August 2026

WRITTEN BY

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Troutman Pepper Locke's Securities Investigations and Enforcement team counsels and defends clients through all stages of securities enforcement proceedings. Our attorneys have served in key government agencies and regulatory bodies, and bring their insight to bear in each representation. The team includes a former branch chief of the Division of Enforcement at the SEC, former enforcement lawyers, regulators and government attorneys, assistant United States Attorneys and former assistant attorneys general, as well as in-house counsel for public companies. Our lawyers and practice have been identified as leaders in the field by publications such as the *Legal 500*, *SuperLawyers*, *Benchmark Litigation*, and *Chambers USA*.

IN THE SPOTLIGHT

Team Member Spotlight: Jennifer McCoy

Jennifer is a partner in our Dallas office whose practice focuses on white collar criminal defense, government and internal investigations, and securities-related matters. She represents companies, educational institutions, public bodies, and individuals facing allegations of fraud, antitrust violations, securities issues, and False Claims Act violations.

Jennifer has extensive trial experience, having secured acquittals in both state and federal courts. She also conducts internal investigations and represents clients before the SEC and other federal and state agencies. Her thorough understanding of regulatory and compliance matters helps clients navigate complex legal landscapes effectively.

For Jennifer's full bio, click [here](#).

IN THE NEWS

Our team frequently comments on emerging trends and developments in the legal industry. Below are several media quotes from one of our team members, offering insights and perspectives on current issues.

- Quoted, "[Energy Industry Sees Few Benefits in Semiannual SEC Reporting Proposal](#)," *S&P Global Market*

Intelligence, June 5, 2026. Republished in [Seeking Alpha](#), June 7, 2026.

- Quoted, "[CFTC Joins SEC in Scrapping 'Gag Rule'](#)," *Pensions & Investments*, June 5, 2026.
- Quoted, "[The SEC's 'Gag Rule' Is Gone. Settlements Could Be More Complex](#)," *Pensions & Investments*, June 1, 2026.
- Quoted, "[SEC's Private Credit Scrutiny Likely to Focus on Valuations, Conflicts](#)," *FundFire*, May 11, 2026.
- Quoted, "[The SEC Wants to Let Firms Report Twice a Year. This Is What It Means for Advisors](#)," *InvestmentNews*, May 7, 2026.
- Quoted, "[Semiannual Reporting Sparks Conundrum For REITs](#)," *Law360*, May 6, 2026.
- Quoted, "[SEC Proposes Rule Reducing Frequency of Public Company Reporting](#)," *Chief Investment Officer*, May 6, 2026.
- Quoted, "[SEC Issues Semiannual Reporting Proposal, Moves to Scrap Climate Rule](#)," *FundFire*, May 6, 2026.
- Quoted, "[SEC Formally Proposes Making Quarterly Reporting Optional for Public Companies](#)," *Corporate Compliance Insights*, May 6, 2026.

WEBINARS AND SPEAKING ENGAGEMENTS

- Jay Dubow will speak on the "[Healthcare Securities Class Actions, SEC Enforcement & Emerging Capital Markets Risks](#)," panel at the American Bar Association Business Law Section Fall Meeting on September 2 at 10:00 a.m. CT.
- Ghillaine Reid will moderate the "[Cybersecurity in the Age of AI](#)," panel at the National Association for Women Lawyers General Counsel Institute on October 14 at 4:15 p.m. ET.
- Ghillaine Reid will speak on the "[Three Seats at the Table: Coordinating Government, Corporate, & Outside Counsel in the Age of AI Investigations](#)," panel at the upcoming GICLI Annual Meeting on November 19 at 9:45 a.m. ET.

SEC REFORM + MARKET INNOVATION

SEC Seeks Public Comment on Novel Exchange-Traded Funds

By [Terrance James Reilly](#) and [Taylor M. Williams](#)

On June 30, the Securities and Exchange Commission (SEC) issued a request for public comment (the Request) on exchange-traded funds (ETFs) that seek to invest in innovative asset classes or employ novel investment strategies (Novel ETFs). The Request signals the SEC's intent to examine and potentially reshape the regulatory framework governing a rapidly evolving segment of the ETF market.

The Request was published in the *Federal Register* on July 2, 2026. Comments must be received on or before August 31, 2026.

[Read more](#)

SEC's Registered Offering Reform Proposal: A Potential Game-Changer for Public Non-Traded REITs

By [Mary Katherine Rawls](#) and [Heath D. Linsky](#)

Public non-traded real estate investment trusts (non-traded REITs) that register their offerings with the U.S. Securities and Exchange Commission (SEC) under the Securities Act of 1933, as amended (Securities Act), have long been subject to a fragmented patchwork of state securities regulation. Under current law, Section 18(a) of the Securities Act restricts states from imposing registration or qualification requirements only on covered securities. Exchange-listed securities enjoy this protection, while unlisted securities, including shares of non-traded REITs, do not.

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ENFORCEMENT + SETTLEMENT DEVELOPMENTS

SEC's 'No?Deny' Settlement Policy Heads for a Crossroads at OMB and the Supreme Court

By [Jay A. Dubow](#) and [Ghillaine A. Reid](#)

On May 8, the U.S. Securities and Exchange Commission (SEC) quietly sent a final rule titled "[Rescission of Policy Regarding Denials in Settlements of Enforcement Actions](#)" to the Office of Management and Budget (OMB) for review under Executive Order 12866. Although the text of the rule has not yet been released, the title strongly suggests that the SEC is preparing to roll back or significantly revise its decades-old "no?deny" settlement policy. That development arrives just as a major challenge to the policy is pending before the U.S. Supreme Court.

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ADVISOR COMPLIANCE + EMERGING LITIGATION RISK

FUNDamental QuickStudy: SEC Division of Examinations Issues Risk Alert on Economic Conflicts of Interest for Investment Advisers

By [Michael K. Renetzky](#), [Genna Garver](#), [Tom Bohac](#), and [Brooke Labonski](#)

On June 9, 2026, the U.S. Securities and Exchange Commission's (SEC) Division of Examinations published a Risk Alert highlighting exam observations related to investment advisers' obligations concerning economic conflicts of interest and associated fee practices. The Risk Alert signals that examiners will be taking a closer look at the economic incentives that advisers and their financial professionals may have when recommending products, services, or account types to clients, including the source and structure of compensation and other economic benefits.

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AI-Related Issues in Securities Cases: Privilege Pitfalls and ‘AI Washing’ Claims

By [Jay A. Dubow](#), [Erica Hall Dressler](#), and [Milica Krnjaja](#)

Artificial intelligence (AI) tools have quickly become integral to users across the spectrum, from large public companies to individual consumers. Public companies now routinely reference “AI-driven” strategies on earnings calls, and boards are being briefed on AI risks alongside cybersecurity and ESG. The legal industry is no exception. Law firms and their clients increasingly rely on AI to draft disclosures, summarize documents, and prepare for litigation. Given this widespread use and popularity, AI-related issues have unsurprisingly begun to feature prominently in recent securities cases. These issues range from allegations of “AI washing” and overstated AI capabilities to disputes over whether clients’ use of generative AI tools can be shielded by the attorney-client privilege.

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